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Brain Injury Association of
Michigan

Disability Advocates of
Kent County

Michigan Academy of
Physician Assistants

Michigan Assisted Living
Association

Michigan Association of
Centers for
Independent Living

Michigan Association of
Rehabilitation Organizations

Michigan Brain Injury
Providers Council

Michigan Chiropractic
Society

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Michigan Consumer
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Michigan Home Health Care
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Michigan Nurses Association

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Michigan Orthotic Prosthetic
Association

Michigan Osteopathic Associa-
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Veterans of America

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Patient Advocacy

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Michigan Rehabilitation
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Michigan Trial Lawyers
Association

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UAW Michigan CAP



*"A broad-based coalition to
preserve the integrity of
Michigan's model
No-Fault Insurance System"*

6/28/05

What's Wrong with HB 4742? (The No-Fault Managed Care Bill)

The Coalition Protecting Auto No-Fault (CPAN) strongly urges the Michigan Legislature to "say no" to auto no-fault managed care as set forth in HB 4742. The proposed bill violates the original promise of the No-Fault Act and is bad public policy. The problems with this bill include the following:

1. ***HB 4742 places a limitation on the no-fault allowable medical expense benefit*** — Although the bill purports to require the payment of unlimited lifetime allowable expenses as currently required by §3107(1)(a) of the Act, the bill contains language which clearly implies that the managed care benefit is actually something less than the unlimited no-fault medical benefit. For example, the bill amends §3107(1)(a), which defines allowable expenses, by adding the prefatory phrase, "*except as provided in §2155.*" If the managed care benefits under HB 4742 were truly the same as the no-fault allowable medical expense benefit, then why is this limiting language added to the statute? Similarly, the bill states that the managed care option requires that "*personal protection insurance benefits must be exhausted by the individual claiming those benefits under the policy with managed care before the individual may seek benefits from another health or accident coverage provider.*" Again, if the managed care option is truly the same as the unlimited no-fault allowable medical expense benefit, then how can it ever be "*exhausted*"? It is provisions like these which clearly suggest that no-fault managed care under HB 4742 is most definitely something less than the current *unlimited* lifetime no-fault benefits, which are the heart of the Michigan No-Fault System.

2. ***HB 4742 contains no limitations on the scope of managed care and threatens access to medical care*** — This bill does not contain any specific definition of managed care other than to say that

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it includes “a preferred provider option or other similar option.” Therefore, insurance companies can define managed care in a very restrictive way so that the insurer is given sole authority to select the patient’s physicians and control the nature, scope and extent of the patient’s care. In fact, there is no guarantee that patients would have the right to access local medical providers in their own communities, or if such local access was permitted, that it would be available at network rates.

2. ***HB 4742 will be a cost shift to health insurance and Medicaid*** — Even though managed care no-fault policies will be primary under HB 4742, the costs of auto accident health care will eventually be shifted to health insurers because, when the managed care coverages are exhausted, the unpaid expenses will become the responsibility of health insurance. That means health insurers will now be liable for medical expenses in situations involving uncoordinated no-fault policies, a situation that does not exist under the current system unless health insurers permit it to happen. This aspect of HB 4742 will increase the liability of health insurers, thereby making health insurance more expensive for all Michigan citizens and driving up the cost of doing business for all Michigan employers. Moreover, the cost shift could ultimately extend to Medicaid because most traditional health policies do not cover long term care in any setting beyond a few months. Patients in that situation would have to “become poor” by spending off their assets on long term care to qualify for Medicaid.

3. ***HB 4742 contains no premium discount guarantees*** — Although the bill requires that the managed care option “shall provide a discount that reflects reasonably anticipated reductions in losses or expenses,” there is nothing in the bill that addresses the amount of the discount, how long it will last or how it will be calculated.

4. ***HB 4742 permits hidden deductibles and co-pays that can swallow any premium savings*** — The bill clearly states that “a managed care option may provide for deductibles or co-pays.” However, the bill contains no protections with regard to the amount of such deductibles or co-pays, nor does it set forth any requirement that the deductibles and co-pays be approved by the Insurance Commissioner. Basically, an insurance company is given unfettered authority to determine the amount of deductibles and co-pays under managed care options. This flaw in the bill could create a major cost shift to accident victims who could end up paying significant amounts for their medical care out of their own pockets.

5. ***HB 4742 contains no real consumer disclosure protections*** — Although the bill requires that consumers be provided with a written disclosure statement detailing the advantages and disadvantages of a managed care option, there are no requirements



regarding the specific contents of the disclosure or that it even be approved by the Insurance Commissioner.

6. ***HB 4742 creates the potential for serious conflict of interest*** — The failure of HB 4742 to place any limitations on the scope of managed care gives insurance companies vast power over a patient's medical treatment and creates the potential for a significant conflict of interest. Under such a managed care system, the no-fault insurer can, by controlling the patient's medical care, give itself the power to influence and shape the medical evidence that will determine the no-fault insurer's liability to pay other portions of the patient's no-fault claim, such as the patient's claim for wage loss benefits, replacement service expenses, liability damages and uninsured/underinsured motorist benefits. Such a fundamental conflict of interest does not exist with traditional managed health care models in non no-fault situations. HB 4742 contains no protections whatsoever to address this problem.

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